



U.S. Department of the Interior  
Office of Inspector General

## **AUDIT REPORT**

**SELECTED ASPECTS OF THE  
EMERGENCY RECLAMATION PROGRAM,  
EASTERN SUPPORT CENTER,  
OFFICE OF SURFACE MINING  
RECLAMATION AND ENFORCEMENT**

**REPORT NO. 96-I-634  
MARCH 1996**



# United States Department of the Interior

OFFICE OF THE INSPECTOR GENERAL  
Washington, D.C. 20240

**MAR 29 1996**

## MEMORANDUM

TO: **The Secretary**

FROM: **Wilma A. Lewis** *Richard N. Reback for*  
Inspector General

SUBJECT SUMMARY: Final Audit Report for Your Information -  
"Selected Aspects of the Emergency Reclamation  
Program, Eastern Support Center, Office of Surface  
Mining Reclamation and Enforcement" (No. 96-I-634)

Attached for your information is a copy of the subject final audit report.

In response to a request we received from the Office of Surface Mining Reclamation and Enforcement, we reviewed selected aspects of the emergency reclamation program in operation at its Eastern Support Center. We concluded that the Support Center was taking timely action to address mining-related emergencies but that improvements were needed in internal controls over the award and administration of contracts for emergency reclamation work and the approval of projects for emergency reclamation funding. Surface Mining concurred with our recommendations to comply with contract award procedures, improve the project design and cost estimation processes, provide more effective monitoring of construction contracts, and provide sufficient documentation to adequately support program eligibility determinations. Most of our findings were related to operations of the Southern Appalachia Branch Office in Ashland, Kentucky.

Based on Surface Mining's response to our draft report and its initiation of corrective actions in some of the finding areas before our fieldwork was completed, we considered all the recommendations resolved.

If you have any questions concerning this matter, please contact me or Ms. Judy Harrison, Assistant Inspector General for Audits, at (202) 208-5745.

Attachment



## United States Department of the Interior

OFFICE OF THE INSPECTOR GENERAL  
Washington, D.C. 20240

MAR 29 1996

## Memorandum

To: Assistant Secretary for Land and Minerals Management

From: Judy Harrison *Judy Harrison*  
Assistant Inspector General for Audits

Subject: Final Audit Report on Selected Aspects of the Emergency Reclamation Program, Eastern Support Center, Office of Surface Mining Reclamation and Enforcement (No. 96-I-634)

This report presents the results of our audit of selected aspects of the Emergency Reclamation Program of the Office of Surface Mining Reclamation and Enforcement's Eastern Support Center. The objective of the audit was to determine whether the Support Center and its field offices were administering the Program in an efficient and effective manner.

Surface Mining's management had identified several potential problems with emergency program projects, including disparities in abatement costs for similar hazards and sites. As a result, Surface Mining officials contacted the Office of Inspector General to request assistance in determining the scope and extent of the problems. During the course of the audit, we conferred periodically with Surface Mining officials over tentative findings. This cooperative effort led to Surface Mining's initiation of additional inquiries and corrective measures, which are presently under way.

We concluded that the Support Center was taking timely action to address mining-related emergencies but that improvements were needed in internal controls over the award and administration of contracts for emergency reclamation work and the approval of projects for emergency reclamation funding. Specifically, we found that: (1) appropriate contract award procedures were not always followed; (2) the project design and cost estimation processes were inadequate; (3) construction contracts were not monitored effectively; and (4) 4 of 50 project files we reviewed did not contain sufficient documentation to adequately support program eligibility determinations. Most of our findings were related to operations of the Southern Appalachia Branch Office in Ashland, Kentucky.

To correct these weaknesses, we recommended that Surface Mining ensure that: (1) expedited contract award procedures are used only when justified; (2) basic design plans are prepared and independently reviewed for each project; (3) project

cost estimates are fully supported; (4) project oversight actions are fully documented in the project files and project oversight reports are complete and prepared in a timely manner; and (5) project eligibility determinations are adequately supported.

On October 12, 1995, we discussed a preliminary draft of this report with Surface Mining officials, who generally agreed with our findings and recommendations. Also, in previous discussions, Surface Mining officials stated that, based on their own evaluation of the program and the results of this audit, actions had been taken to improve Program operations as follows: (1) project inspectors and contracting officers' technical representatives were trained; (2) field reports were prepared by project engineers assigned to the Southern Appalachia Branch Office; (3) the installation of cellular telephones in the vehicles of field personnel and the contracting officer stationed at the Southern Appalachia Branch Office had improved communications; (4) a series of interdivisional management meetings were initiated by the Abandoned Mine Lands Division and the Administrative Services Division to improve communications and establish "better teamwork"; (5) a formal Divisional workplan for fiscal year 1995 had been developed that included the establishment of formal goals and measurements of accomplishments for programmatic and customer service activities; (6) a Technical Specification Improvement Team was established to address the problems identified in our draft report; (7) peer reviews were implemented of technical specifications on projects estimated to cost over \$150,000; and (8) a requirement was established for the Chief, Abandoned Mine Lands Division, to approve all requests for the use of expedited bidding procedures based on stated factors. We believe that these actions and other issues discussed at the exit conference reflect Surface Mining's resolve to improve current operations. Based on additional information provided at the exit conference, we modified our report as appropriate.

Based on the March 26, 1996, response (Appendix 1) to the draft report from the Director, Office of Surface Mining Reclamation and Enforcement, we consider one of the report's nine recommendations resolved and implemented and the remaining eight recommendations resolved but not implemented. Accordingly, the unimplemented recommendations will be referred to the Assistant Secretary - Policy, Management and Budget for tracking of implementation, and no further response to the Office of Inspector General is required (see Appendix 2).

The legislation, as amended, creating the Office of Inspector General requires semiannual reporting to the Congress on all audit reports issued, actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

cc: Director, Office of Surface Mining Reclamation and Enforcement

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# INTRODUCTION

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## BACKGROUND

The Office of Surface Mining Reclamation and Enforcement was established by the Surface Mining Control and Reclamation Act of 1977 to regulate surface coal mining operations and to reclaim coal mine sites that were abandoned without adequate reclamation before the Act was passed. Title IV of the Act established the Abandoned Mine Reclamation Fund and authorized the Secretary of the Interior to use the Fund for the reclamation of eligible lands. The Fund's revenues, which total over \$200 million annually, are derived from reclamation fees paid by coal operators on coal produced after September 30, 1977. Under Section 410 of Title IV, the Secretary is authorized to expend monies from the Fund for the emergency restoration, reclamation, abatement, control, or prevention of adverse effects of coal mining practices on eligible lands. Emergency situations include burning refuse piles, underground mine fires, hazardous mine openings, highwall failures, mine drainage, subsidence, and landslides caused by previous mining.

Eligibility for emergency assistance under the Act requires that a condition constitute a danger to public health, safety, or general welfare and not be subject to timely correction by another person or agency. Surface Mining policy provides that in order for a condition to be declared an emergency, it must be anticipated that the emergency reclamation (excluding the revegetation of reclaimed land) can be completed within 6 months of receipt of the emergency complaint. The objective of emergency reclamation is to stabilize the problem and eliminate the danger to public health, safety, and welfare. Complete reclamation is not required, and additional reclamation work can be completed under other reclamation programs at a later date.

Surface Mining's Eastern Support Center, located in Pittsburgh, Pennsylvania, is responsible for conducting the Federal Emergency Reclamation Program in the eastern United States. The Support Center's Administrative Services Division awards and administers contracts for emergency construction projects, including contracts for construction, architect and engineer services, geotechnical studies, exploratory drilling, and on-site inspection. The staff of the Support Center's Abandoned Mine Lands Division provide technical assistance in determining and abating mining-related emergencies and serve as the contracting officers' technical representatives for the Support Center on individual reclamation project construction contracts. The Division also uses Support Center staff in branch offices in Ashland, Kentucky (Southern Appalachia Branch Office), and Wilkes-Barre, Pennsylvania (Anthracite Branch Office), to manage emergency reclamation projects.

## OBJECTIVE AND SCOPE

We performed the audit at the request of the Office of Surface Mining Reclamation and Enforcement, which expressed concerns regarding Emergency Reclamation Program activities at the Eastern Support Center and the Southern Appalachia Branch Office. Surface Mining's management had identified several potential problems with emergency program projects, including disparities in abatement costs for similar hazards and sites. As a result, Surface Mining officials contacted the Office of Inspector General to request assistance in determining the scope and extent of the problems. During the course of the audit, we conferred periodically with Surface Mining officials over tentative findings. This cooperative effort led to Surface Mining's initiation of additional inquiries and corrective measures, which are presently under way.

The objective of the audit was to determine whether the Support Center and its field offices were administering the Emergency Reclamation Program in an efficient and effective manner. Our review focused on emergency reclamation projects conducted under emergency construction contracts issued during fiscal years 1990 through 1993. During this period, the Support Center issued 970 emergency construction contracts, totaling \$34.4 million, for 757 projects; 161 contracts, totaling \$2.4 million, for architect and engineer services; and 386 contracts, totaling \$2.0 million, for inspection services on reclamation projects. As of June 3, 1994, the Support Center had issued 1,437 contract modifications to those contracts, totaling \$6.9 million.

To accomplish our objective, we reviewed 50 projects related to 50 emergency construction contracts awarded during fiscal years 1990 through 1993 for work in Pennsylvania (7 contracts) and Kentucky (43 contracts). Our sample included all 31 contracts for which the contract costs, including modifications, exceeded \$300,000 and 19 other contracts awarded in fiscal years 1992 and 1993 at costs from \$25,000 to \$300,000. The 50 emergency reclamation projects, costing \$18.2 million,<sup>1</sup> related to landslides (36 projects, totaling about \$14.4 million), land subsidence (9 projects, totaling about \$2.8 million), fires (3 projects, totaling about \$780,000), highwall failure (1 project for about \$190,000), and mine drainage (1 project for about \$50,000). Because our sample selection of projects was based on the total Federal cost of construction contracts and because most high cost construction contracts were applicable to projects administered by the Southern Appalachia Branch Office, most of the findings in this report relate to projects administered by the Southern Appalachia Branch Office.

This performance audit was conducted at Surface Mining's headquarters in Washington, D. C.; the Eastern Support Center; and the Abandoned Mine Lands

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<sup>1</sup>Project costs include construction, architect and engineer (if applicable), and inspection costs.

Division's Southern Appalachia Branch and Anthracite Branch. We also visited Surface Mining's Lexington Field Office in Lexington, Kentucky; the Kentucky Department of Surface Mining Reclamation and Enforcement in Frankfort, Kentucky; and emergency reclamation project sites in Martin County and Pike County, Kentucky. In addition, we contacted Surface Mining inspection, construction, and engineering contractors, as well as citizens who were affected by emergency reclamation work.

The audit was made, as applicable, in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances. As part of our audit, we evaluated the system of internal controls over the management of the Emergency Reclamation Program to the extent we considered necessary to accomplish the audit objective. We found weaknesses in Surface Mining's internal controls in the areas of contract award, project design and cost estimating, contract monitoring, and project eligibility determinations. These weaknesses and the recommended corrective actions are discussed in the Findings and Recommendations section of this report. Our recommendations, if implemented, should improve the internal controls in these areas.

## **PRIOR AUDIT COVERAGE**

During the past 7 years, the Office of Inspector General and the General Accounting Office have each issued one report related to Surface Mining's Emergency Reclamation Program as follows:

- The Office of Inspector General report "Followup of Recommendations Concerning the Abandoned Mine Land Program, Office of Surface Mining Reclamation and Enforcement" (No. 91-I-622), issued in March 1991, recommended that Surface Mining develop controls to ensure that the Government did not incur excess costs because of unbalanced bidding on contracts. We considered the recommendation resolved and implemented based on Surface Mining's actions.

- The General Accounting Office report "Surface Mining, Interior's Response to Abandoned Mine Emergencies" (No. GAO/RCED-89-74), issued in January 1989, concluded that sufficient information was not available in complaint case files to track a complaint through the review process and to verify that emergency eligibility criteria had been met. The report recommended that Surface Mining develop written criteria for structuring and documenting complaint case files and periodically review complaint case files to ensure that all required information is included and that timely action is taken to resolve the complaint. During our current review, we found instances where eligibility determinations were not sufficiently documented, as discussed in the Findings and Recommendations section of this report.



## FINDINGS AND RECOMMENDATIONS

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### A. CONTRACT AWARDS

Contracting officials did not ensure that technical personnel adequately protected the Government's interest when they expedited<sup>2</sup> contract awards to respond to emergencies. The Eastern Support Center used firm-fixed-price construction contracts issued through competitive bidding to perform the work required to complete emergency projects. Guidelines established by the Support Center's contracting section allow 13 days for pre-bidding meetings, receipt of bids, review of bids, and award of emergency contracts. However, for 17 of the 50 construction contracts we reviewed, the solicitation was issued and the pre-bidding conference and bid opening were held on the same day. For 14 of these 17 contracts, the contract was awarded on either the same day or the next day. As a result of the process used to expedite contract awards, the Support Center had limited time to contact bidders, and bidders had limited time (as little as one hour) to review the solicitation packages and prepare their bids. The lack of adequate time to review the solicitation package increased the economic risk to the potential bidders and, coupled with design plans that did not clearly show the extent of the work to be performed (see Finding B), could result in higher bids and excess costs to the Government.

Contracting personnel relied on technical personnel to determine whether expedited award procedures were necessary without ensuring that such procedures were adequately justified. Our review of the 17 contracts that used expedited procedures identified 8 contracts for which the use of expedited procedures was questionable. For example:

- Expedited procedures were used on one project, even though 8 months had elapsed since the incident was first investigated by Surface Mining. During this period, a geotechnical investigation was performed, and work on the project was halted because of funding restrictions. As soon as funding was available, the project pre-bidding conference and the bid opening were held on the same day. The following day, the contract was awarded for \$231,102.

- On another project that used expedited procedures after several months of geotechnical investigation, the contractor did not mobilize equipment to the site until over 2 weeks after the contract was awarded. The project was awarded to one of only three bidders for \$396,295 on the day following the pre-bidding conference and the bid opening,

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<sup>2</sup>Situations where pre-bidding conferences were held on the same day as bid openings and contractors were not provided project specifications before the pre-bidding conference.

As discussed with Surface Mining officials at our exit conference, we believe that expedited contracting procedures should be used only in situations where delays could result in personal injury or further damage to the environment. In addition, expedited procedures should not be used to address nonemergency aspects of a situation (such as revegetation) unless this approach would be more cost effective than using routine contracting procedures.

## **Recommendation**

We recommend that the Director, Office of Surface Mining Reclamation and Enforcement, ensure that expedited contract award procedures are utilized only when adequately justified.

## **Office of Surface Mining Reclamation and Enforcement Response and Office of Inspector General Reply**

In its March 26, 1996, response (Appendix 1) to the draft report, the Office of Surface Mining Reclamation and Enforcement concurred with the recommendation, stating that additional justification for using expedited contract award procedures was now required from project managers. Based on the response and our review of documentation included with the response, we consider the recommendation resolved and implemented (see Appendix 2).

## **B. PROJECT DESIGN PLANS AND COST ESTIMATES**

The Eastern Support Center did not ensure that emergency projects were designed adequately or that project cost estimates were reliable. Project files generally did not contain overall design plans, and cost estimates were not supported by detailed analyses of the work to be performed. Surface Mining Directive AML-4 and the Federal Acquisition Regulation, Part 36, require that work that is to be performed by contractors be presented clearly. The Federal Acquisition Regulation also requires that Government cost estimates be prepared in the same detail as though the Government was competing for the contract. Support Center officials indicated that the emergency nature of the projects did not allow sufficient time to prepare “elaborate” designs and drawings and that some basic sketches may have been prepared but not documented in the files. They also stated that computations and cost information may have been prepared or obtained to support some of the project cost estimates but that they were not formally documented or retained because there was no requirement to do so. As a result, the Support Center did not have assurance that the projects would be completed properly and in an efficient and cost-effective manner.

### **Project Design Plans**

Overall design plans showing existing conditions and proposed corrective actions were not in the project files for 45 of the 50 emergency construction projects included in our sample. Technical specifications were prepared that delineated the general types of work to be performed, such as excavation, construction of drainage ditches and retaining walls, and revegetation, and sometimes included cross-sectional drawings showing how these tasks should be performed. However, the specifications included in the contracts were generic documents that did not specifically indicate the location and dimensions of the proposed work in relation to the entire project area. The specifications generally noted that the project manager or the project engineer would establish the location and dimensions of specific tasks at the appropriate time.

In our opinion, establishing the types of work that need to be performed without showing how this work is to be integrated into an overall plan does not constitute effective project design. We believe that without a basic plan that is appropriately updated for changes in the original scope of work, the individuals involved in performing and monitoring the projects, including project managers, contractors, inspectors, Division management, and contracting personnel, cannot carry out their responsibilities effectively.

Support Center officials indicated that the emergency nature of the program prohibited the drafting of formal plans because Surface Mining was required by law to act “expeditiously” to alleviate imminent public danger. However, the emergency

reclamation procedures outlined in Directive AML-4 require that overall plans be completed before construction contracts are awarded. The first step in the Directive regarding implementation of emergency corrective action requires that the Support Center or field office, “as appropriate,” take the following action:

Prepare a set of detailed written specifications, or request a consulting engineer contractor to prepare specifications that should at a minimum include: (a) Detailed itemized work necessary to correct the problem. (b) Any drawings necessary to make work required more clear. (c) An itemized bid sheet showing each unit of work required with a space for bid price on each unit. (d) The estimated cost by unit of work required.

In our opinion, these steps should be completed in all circumstances, although the formality of presentation and the level of detail required may vary for different projects. Considering the emergency nature of the work and the resulting time constraints, we recognize that adequately labeled freehand sketches may be more appropriate than formal engineering drawings in some instances and that handwritten documents may have to be used in place of typewritten documents.

We also concluded that the lack of independent reviews of project designs and specifications has contributed to the deficiencies noted in these documents. According to Support Center officials, project managers were responsible for reviewing the designs and specifications prepared by the project engineers. In our opinion, project managers, as “team” representatives, are not sufficiently independent to conduct these reviews. We believe that the preparation of overall design plans and the independent review of such plans by technical personnel who are independent of the direct performance team would help ensure that: (1) proposed actions constitute the best available reclamation alternative; and (2) technical specifications are sound. Without independent reviews, design errors or deficiencies that result in increased project costs may not be detected and corrected.

We also believe that some of the deficiencies related to inadequate communication and coordination among technical employees and between technical employees and contracting employees (see Finding C) may have been prevented through the preparation and maintenance of design plans providing tangible guidelines for the actual work to be performed under the contracts.

## **Cost Estimates**

The Support Center did not prepare cost estimates for emergency projects in the detail required by the Federal Acquisition Regulation. Subpart 36.203 of the Regulation states:

An independent Government estimate of construction costs shall be prepared and furnished to the contracting officer at the earliest practicable time for each proposed contract and for each contract modification anticipated to cost \$25,000 or more. The contracting officer may require an estimate when the cost of required work is anticipated to be less than \$25,000. The estimate shall be prepared in as much detail as though the Government was competing for award.

However, we found that 47 of the 50 cost estimates we reviewed included only a delineation of the types of work to be performed and the estimated units, unit prices, and total prices. The derivation of these amounts was not documented. Adequate cost estimates could not be prepared because, as discussed previously, overall design plans that included the necessary tasks and detailed specifications had not been developed. Officials at the Southern Appalachia Branch Office indicated that the supporting calculations were prepared but were not maintained in the project files because there was no requirement to do so. These officials also stated that unit prices included in the estimates were based on the preparers' undocumented personal knowledge of current industry prices. Without documentation that cost estimates are based on work determined to be necessary and on valid current industry prices, the Government does not have assurance that cost estimates are reliable, which would prevent contracting officers from effectively determining the reasonableness of contractor proposals.

The need for overall plans and cost estimates to assist contracting officers in evaluating proposed costs is illustrated by the significant variances in the contract amounts for similar projects designed by two project engineers from the Southern Appalachia Branch during fiscal years 1992 and 1993 as follows:

	<u>No. of Contracts</u>	<u>Average Initial Award</u>	<u>Average Total Project Costs*</u>
Engineer A	46	\$127,194	\$138,746
Engineer B	33	66,252	73,811

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\*Includes all contract modifications

Southern Appalachia Branch officials indicated that these variances were not attributable to the complexity of the projects assigned to each engineer because projects were assigned in the order in which they occurred and the Branch did not have a policy of assigning the more complex projects to a particular engineer.

Instead, these variances appear to be attributable to differences in professional judgment regarding the nature and extent of reclamation required to adequately address the emergency situation. For example, a landslide project initially awarded for \$129,295 was reassigned to another project engineer 5 months into the project, after the initial project engineer was transferred. The new project engineer recommended contract modifications totaling about \$231,000, which the original project engineer had believed were unnecessary to abate the immediate emergency.

Differences in professional judgment regarding the design of reclamation projects can significantly affect project costs. To help ensure that reclamation projects are designed properly and that the projects are performed in the most cost-effective manner, clear overall project designs and detailed cost estimates should be prepared and reviewed and approved independently.

## **Recommendations**

We recommend that the Director, Office of Surface Mining Reclamation and Enforcement:

1. Require that emergency project construction contracts include basic project designs which include the complete scope of work,
2. Require that project designs and specifications, including those applicable to contract modifications, be independently reviewed by engineering personnel who are not directly involved in the project.
3. Ensure that cost estimates for initial project work and subsequent changes are supported by detailed analyses of work to be performed.

## **Office of Surface Mining Reclamation and Enforcement Response and Office of Inspector General Reply**

In its March 26, 1996, response (Appendix 1) to the draft report, the Office of Surface Mining Reclamation and Enforcement concurred with the three recommendations, stating that an Alternative Management Control Review will be performed to further identify risks related to the preparation and review of basic design plans and that controls would be established based on the results of the review. Based on the response, we consider the recommendations resolved but not implemented (see Appendix 2).

## C. CONTRACT MONITORING

The Eastern Support Center did not adequately monitor emergency construction contracts. Specifically, we found that: (1) project managers did not consistently record, in the project files, instructions provided to contractors and the status of work performed; (2) project managers and project engineers authorized changes to contract terms and conditions without the documented approval of the contracting officer; and (3) on-site project inspectors did not always provide timely and informative reports to the contracting officers on the status of work. Surface Mining's Abandoned Mine Lands (AML) Project Manager's Handbook and Procedures Manual requires that project managers document all relevant information in the project files; the Federal Acquisition Regulation, Part 1, states that only authorized contracting officers can authorize changes to contract terms; and statements of work included in individual inspection contracts require that project inspectors provide timely and comprehensive reports to contracting officers. We concluded that these requirements were not always met because of: (1) inadequate communication and cooperation among technical employees and between technical employees and contracting employees stationed at the Southern Appalachia Branch Office and the Eastern Support Center;<sup>3</sup> and (2) the failure of contracting officers to ensure that progress reports submitted by project inspectors were timely and complete. As a result, technical and contracting personnel did not always function effectively as a project team; unauthorized personnel approved the performance of work by contractors, contributing to contractor claims for additional work totaling about \$450,000; and a contractor was overpaid approximately \$24,000.

Emergency reclamation construction projects were monitored primarily by the contracting officers and technical personnel. Project managers generally acted as the contracting officer's technical representative and monitored construction projects by visiting sites on a continual basis and by coordinating with project engineers and project inspectors. Project engineers also visited job sites to evaluate construction progress and compliance with specifications. Project inspectors, who were on-site on a full-time basis, provided contracting officers and project managers with written weekly reports of a contractor's progress. Contracting officers used the weekly progress reports from the inspectors to monitor their projects. Technical representatives were required to keep the contracting officers informed of any potential problems regarding contractor compliance with contract terms.

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<sup>3</sup>The issues of inadequate communication and cooperation problems have been discussed with Surface Mining officials.

## **Project Managers**

Project managers serving as contracting officers' technical representatives were not formally required to submit project oversight reports to the contracting officers on a consistent basis. However, Surface Mining's training course materials for contracting officers' technical representatives state that technical representatives are responsible for preparing and forwarding their on-site reports to the contracting officer so that the contracting officer can ensure that contract terms and technical specifications are being met. We found that 36 of the 50 project files reviewed did not include any reports of site visits made by the project managers, and the reports that were prepared were apparently not sent to the contracting officers. As a result, contracting officers lacked assurance that the instructions given to contractors and the subsequent work performed were in accordance with contract terms.

## **Project Managers and Project Engineers**

Project managers and project engineers made changes to contract quantities and specifications without the documented approval of contracting officers (as required by the Federal Acquisition Regulation) in 25 of the 50 contracts in our sample. Although most of the unauthorized work was ultimately approved after the fact by contracting officers, two of the actions noted in our sample resulted in contractor claims for payments totaling \$450,000 as follows:

- A contractor filed a claim for \$406,976, which consisted of \$182,701 for additional work and \$224,275 for downtime. The contracting officer stated that both the project manager and the project engineer authorized work outside the scope of the contract. The project manager stated that he believed that the contracting officer had authorized the proposed changes and additional work. At the time of our review, the contractor's claim had not been resolved.

- A contractor filed a claim for \$42,271 for additional work, stating that the project manager and two project engineers directed him to perform work that was outside the scope of the contract. The contracting officer said that he was not notified by the technical personnel at the time the changes were made and that he subsequently disallowed the contractor's claim on the basis that the claimed work was clearly outside the scope of the contract. Although Surface Mining did not pay this claim, this situation demonstrates the type of problems that may occur because of the inadequate communication between the contracting officers and the technical representatives.

## **Project Inspectors**

Contracting officers did not ensure that progress reports submitted by project inspectors were timely and complete. We found that project inspectors did not



submit required reports on contractor progress on time to the contracting officers for 8 of the 50 projects in our sample. We also noted that the reports for 20 of the 50 projects did not provide sufficient detailed information for evaluating contractor performance, such as the following: (1) information on the contractor's progress in completing required tasks, such as quantities of materials delivered, used, or moved; (2) instructions provided to contractors by project managers and engineers regarding work performed (constituting additional specifications); or (3) determinations as to whether the work performed was in accordance with contract specifications.

The results of inadequate communication and cooperation between technical and contracting personnel are illustrated in the following examples:

- One contractor was overpaid about \$24,000 because the contracting officer did not verify, with the technical representative, the amount of quantities on the contractor's invoices. The contracting officer stated that he submitted the invoices for payment after repeated unsuccessful attempts to obtain verification of the quantities by the technical representative. All work had been completed on the project by October 7, 1992, and final payment to the contractor was approved by the contracting officer on April 12, 1993. The technical representative's subsequent review of final quantities indicated that the contractor had been paid for work not performed. According to Surface Mining officials, the \$24,000 overpayment was collected from the contractor after completion of our audit fieldwork.

- One contractor claimed reimbursement for work valued at approximately \$8,500 that a project manager and a project engineer may have authorized without prior approval from the contracting officer. The project engineer stated that the contracting officer had been kept informed of all changes to the contract, but this statement could not be documented. The contracting officer stated that the claimed work had not been authorized. This issue was brought to our attention by Surface Mining and was unresolved at the time of our review.

Surface Mining officials agreed that increased cooperation between technical and contracting personnel was essential for effective program performance and that improved management oversight would have prevented some of these problems.

## **Recommendations**

We recommend that the Director, Office of Surface Mining Reclamation and Enforcement:

1. Ensure that information related to all changes and additions to work performed under emergency construction contracts is appropriately documented in the project files, with copies of the documentation provided to the contracting officer.

2. Require contracting officers' technical representatives to report on the status of emergency construction projects on a consistent basis.

3. Ensure that project inspectors submit their reports timely and that the reports contain the information required in the scope of work of the inspection contracts.

4. Ensure that managers and supervisors direct emergency project personnel to cooperate in providing adequate oversight and assistance to project team members. Within this context, consideration should be given to emphasizing a team member's contribution to team effectiveness in appraising the individual performance.

### **Office of Surface Mining Reclamation and Enforcement Response and Office of Inspector General Reply**

In its March 26, 1996, response (Appendix 1) to the draft report, the Office of Surface Mining Reclamation and Enforcement concurred with the recommendations, stating that some standards for project oversight had been placed in the Abandoned Mine Lands Division's annual workplan and that timeliness of report documents was being reviewed and would be considered when evaluating employee performance. Based on the response, we consider the recommendations resolved but not implemented (see Appendix 2).

## D. ELIGIBILITY DETERMINATIONS

The Eastern Support Center's files for 4 of the 50 projects reviewed did not contain sufficient documentation to support the determination that the emergency situation resulted from mining activities that occurred prior to enactment of the Surface Mining Control and Reclamation Act. All four projects were recommended for approval by the Southern Appalachia Branch Office. Title IV of the Act requires that emergency projects be related to land and water affected by coal mining practices that occurred before August 3, 1977. In addition, Surface Mining Directive AML-4 requires that the nature of problems qualifying as emergency projects be specifically identified and documented, including "appropriate answers to when, where, how, and why questions relative to the development of the problem(s); and the causal relationship to the coal mining practices." However, the files did not contain documentation showing that concerns regarding the eligibility of the projects had been resolved. Consequently, we could not determine whether four landslide projects, costing approximately \$1.9 million, were eligible for emergency reclamation program funding under the Act as follows:

- According to Surface Mining personnel, the initial investigation for a \$549,168 project concluded that the primary cause of the slide was related to excavation activities performed by the landowner subsequent to the mining activity and that the project was therefore ineligible. However, the project was approved based on a second investigation, which determined that the project met the eligibility requirements of the Act. We found no documentation of the first investigation in the project files and no information in the second investigation report to reverse the original decision of ineligibility. The two principal investigators involved in the first investigation and an engineer involved in the second investigation said that they believed the project was ineligible. The person responsible for the second investigation no longer works for Surface Mining. The branch chief, who had visited the project site, was unable to explain the discrepancy between the two investigations except to state that there were differing views within Surface Mining regarding the establishment of a direct causal relationship to pre-Act mining activities.

A landslide project costing \$503,448 was initially found to be ineligible by the responsible field office but was reinvestigated by the branch office, which also performed the project. Both pre- and post-Act mining occurred at the project site, and a geotechnical investigation was performed by an engineering firm. Although the engineering firm found the cause of the slide to be mining related, the firm did not determine whether the slide was caused by pre- or post-Act activities. We found no other information in the files to resolve this issue, and the briefing paper prepared for project approval did not mention that post-Act mining had occurred in the vicinity.

- The files for a project costing \$372,523 did not contain documentation showing resolution of statements made by area residents that a slide was not caused by pre-Act mining but by the undercutting of the site by the person residing on the land. Technical personnel stated that the emergency condition was considered mining related based on a previous engineering investigation conducted in the area.

A project costing \$521,584 was approved, even though a geotechnical investigation was inconclusive as to whether the slide was caused by pre- or post-Act mining. Hydrologic testing that could have resolved the issue was not performed, although it had been requested by both the field office and the investigating engineer. Although the project manager stated that hydrologic testing could have provided conclusive evidence of eligibility, he believed that the project was eligible and therefore did not conduct hydrologic testing.

At our exit conference, Surface Mining officials indicated that although written resolutions of all comments pertaining to project eligibility were not prepared and documented, all comments were considered. The officials also stated that Surface Mining policy does not require that the relationship of the emergency situation to coal mining be proven with "absolute certainty." However, we believe that because Surface Mining consistently lacked adequate funding for emergency projects, questions regarding project eligibility should be satisfactorily addressed and documented in the files to ensure that ineligible projects are not funded. We also believe that testing methods that are relatively inexpensive and timely should be used when necessary to adequately substantiate that the emergency situation was mining related.

## **Recommendation**

We recommend that the Director, Office of Surface Mining Reclamation and Enforcement, ensure that project files contain adequate support for project eligibility determinations, including the resolution of all questionable issues.

## **Office of Surface Mining Reclamation and Enforcement Response and Office of Inspector General Reply**

In its March 26, 1996, response (Appendix 2) to the draft report, the Office of Surface Mining Reclamation and Enforcement concurred with the recommendation, stating that a checklist for eligibility criteria would be developed by August 1, 1996. Based on the response, we consider the recommendation resolved but not implemented (see Appendix 2).



## United States Department of the Interior

OFFICE OF SURFACE MINING  
Reclamation and Enforcement  
Washington, D.C. 20240

MAR 26 1996

### Memorandum

**To:** Acting Assistant Inspector General for Audits  
**From:** Director *Robert J. Man*  
**Subject:** Response to Draft Audit Report on Selected Aspects of the  
Emergency Reclamation Program, Eastern Support Center,  
Office of Surface Mining Reclamation and Enforcement  
(Assignment No. E-IN-OSM-004-94)

This is in response to your February 6, 1996 memorandum and draft audit report entitled "Selected Aspects of the Emergency Reclamation Program, Eastern Support Center, Office of Surface Mining Reclamation and Enforcement (Assignment No. E-IN-OSM-004-94)". We appreciate the opportunity to review the draft report and to provide our comments.

As you are aware, the audit was conducted at our request after we had identified several potential problems with AML emergency program projects. We recognized the valuable insight the Office of Inspector General would bring in assisting us to further identify and resolve operational problems with the emergency program.

We have completed our review of the draft report and concur with its findings and recommendations. Your February 6 memorandum already reflects many actions OSM has taken to address programmatic problems. Our specific plans for implementing your remaining recommendations are explained in the attachment. Please note that effective with OSM'S May 1, 1995 reorganization, the responsibilities previously assigned to the Eastern Support Center during the audit period have been reassigned to our Appalachian Regional Coordinating Center in Pittsburgh, Pennsylvania. The Regional Director of that center will be the responsible official for carrying out the implementation plan.

If you have any questions concerning our response, please contact George Stone, Audit Coordinator, Office of Strategic Planning and Budget, at (202) 208-7840.

Attachment

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT  
IMPLEMENTATION PLAN - RECOMMENDATIONS RESULTING  
FROM AUDIT BY OFFICE OF INSPECTOR GENERAL  
AML EMERGENCY PROGRAM

The table below reflects the actions planned to implement the recommendations and a projected target date for completion of those actions. The official responsible for plan implementation is the Regional Director, Appalachian Regional Coordinating Center.

RECOMMENDATION	ACTION	PROJECTED COMPLETION DATE
1. Use expedited contract award procedures only when justified.	Additional justification is now being required from Project Manager for use of expedited contracting procedures. See attached <u>documentation.</u> *	Completed
2. Ensure that basic design plans are prepared and independently reviewed for each project	An AMCR will be completed to further identify risks. Controls will be established based on the results of the AMCR.	Complete AMCR by 06/31/96; Implement new controls by 07/31/96
3. Ensure that project cost estimates are fully supported	Develop review process.	09/30/96
4. Ensure that project oversight actions are fully documented in the project files and project oversight reports are complete and prepared in a timely manner.	Currently reviewing timeliness of report documents. Timeliness of this documentation will be considered in employee performance. Some standards for performance have been placed in Division's annual workplan.	Ensure employee performance standards are adequate and in place for the 1997 evaluation year. Complete by 07/31/96.
5. Ensure that project eligibility determinations are adequately supported.	Develop eligibility criteria checklist.	08/01/96

Prepared: March 22, 1996

\* [NOTE: ATTACHED DOCUMENTATION NOT INCLUDED BY OFFICE OF INSPECTOR GENERAL. ]

## STATUS OF AUDIT REPORT RECOMMENDATIONS

Finding/Recommendation Reference	Status	Action Required
A. 1	Implemented.	No further action is required.
B.1-B.3; C.1-C.4; and D. 1	Resolved; not implemented.	No further response to the Office of Inspector General is required. The recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation.

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